

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

ORDER

Ramesh Kumar

Vs. State of Rajasthan & Anr.

S.B.CR.MISC. PETITION NO.1390/2006

DATE OF ORDER

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November 08, 2006

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr. D.K.Gaur, for the petitioner.

Mr. Ashok Upadhyaya, P.P.

Mr. Vinod Bhati, for complainant-non-petitioner No.2.

BY THE COURT:

By the instant criminal misc. petition under section 482 Cr.P.C., the petitioner seeks quashing of criminal proceeding in Cr.Original Case No.173/2001 arising out of FIR No.215/1999, Police Station, Sujangarh pending before the Court of Judicial Magistrate, Sujangarh (for short 'the trial court' hereinafter).

I have heard learned counsel for the petitioner, Public Prosecutor and the counsel appearing for the complainant non-petitioner No.2.

It appears that the complainant non-petitioner No.2 filed a report against the present petitioner, who is her husband, for the offences under sections 498-A and 406 I.P.C. During the pendency of the case before the trial court, the parties settled the disputes amicably and started living together as husband and wife and, therefore, filed a compromise before the trial court requesting the trial court to compound the offences. The trial court noticed that the offence under section 498-A IPC is not compoundable and so far as offence under section 406 I.P.C. is concerned, though it is compoundable with the permission of the Court where the value of property does not exceed to Rs.250/- and, therefore, finding the value of the property exceeding to Rs.250/-, the trial court declined to record the compromise. Hence, this petition under section 482 Cr.P.C.

Limiting the value of property up to Rs.250/- has been enhanced by the Amendment Act of 2005 (25 of 2005) to Rs.2000/-.

In the instant case, since the complainant has settled the disputes amicably with her husband, the petitioner and the parties have decided to live together as husband and wife and as such the complainant resumed to her matrimonial home, therefore there is no evidence likely to come against the present

petitioner even if the proceeding is allowed to continue.

In *B.S.Joshi and Others Vs. State of Haryana and Another* **(2003) 4 SCC 675**, Hon'ble Supreme Court held that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, Section 320 Cr.P.C. would not be a bar to the exercise of power of quashing. Thus, the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 Cr.P.C. The wife therein filed an affidavit stating therein that the FIR was registered at her instance due to temperamental differences and implied imputations. The Hon'ble Supreme Court held that there may be many reasons for not supporting the imputations and in such eventuality, there would almost be no chance of conviction. So it would not be proper to decline to exercise power of quashing on the ground that it would be permitting the parties to compound non-compoundable offences. Hon'ble Supreme Court further held that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier and that would be against the object of S.498-A I.P.C.

Keeping in view the aforesaid decision, in my view no useful purpose will be served in allowing the proceeding to

continue.

In the result, the criminal misc. petition is allowed. The criminal proceeding in criminal original case No.173/2001 pending before the Judicial Magistrate, Sujangarh for the offences under sections 498-A and 406 I.P.C. against the present petitioner stands quashed.

[H.R.PANWAR],J.

m.asif/-